

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KATHLEEN L. LIEBAU,

Plaintiff,

v.

DYKEMA GOSSETT, PLLC, a Michigan
professional limited liability company,

Defendant.

Case No: 21-cv-11823

Judge Shalina D. Kumar

Magistrate Judge David R.
Grand

STERLING ATTORNEYS AT LAW, P.C.
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DEFENDANT'S MOTION TO SUPPLEMENT THE RECORD

Defendant Dykema Gossett, PLLC, moves to supplement the summary judgment record to provide the Court information it requested during the hearing on Defendant's Motion for Summary Judgment. In support, it states:

1. On January 25, 2023, this Court held a hearing on Defendant's Motion for Summary Judgment.
2. During that hearing, this Court inquired about Plaintiff's historical performance reviews and write-ups while under Susan Choma's supervision.
3. Although some of this information is already in the record before the Court (*see* ECF No. 24-7, PageID.658; ECF No. 24-8, PageID.660), and Defendant reiterates its position that the record evidence presently before the Court is sufficient to grant Defendant's Motion for Summary Judgment, to satisfy the Court's inquiry, Defendant now supplements the summary judgment record to provide the Court with all of Plaintiff's performance-related records beginning in 2012, when Ms. Choma became Plaintiff's supervisor. Defendants direct this Court's attention to the documents located at Dykema/Liebau 396–402 for records showing performance issues documented by Ms. Choma prior to 2017—the focus of the Court's inquiry.
4. This Court has the discretionary authority to allow supplementation of the record for good cause shown. *See Duha v. Agrium, Inc.*, 448 F.3d 867, 881 (6th Cir. 2006). This Court's questions during the hearing establish the necessary good

cause because they demonstrate that this Court may consider such information pertinent as part of its summary judgment ruling.

5. All records being submitted have been exchanged between the parties during discovery.

6. Counsel for Defendant notified Plaintiff's counsel about this filing and requested concurrence. Plaintiff's counsel responded that he did not believe additional submissions were requested or necessary but that, "to the extent the Court will consider it, [he] do[es] not object to these records."

Respectfully submitted,

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Dated: January 26, 2023

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2023, I electronically filed the foregoing document with the Clerk of the Court using the ECF System, which will provide electronic copies to all ECF participants.

/s/ Elizabeth Hardy
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